
TITLE 327 WATER POLLUTION CONTROL DIVISION

FIRST NOTICE OF COMMENT PERIOD

LSA Document #21-521

TITLE 327 REVISIONS TO VOLUNTARY PERFORMANCE BASED LEADERSHIP PROGRAMS**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at [327 IAC 18](#) concerning revisions to the agency's voluntary performance based leadership programs. IDEM seeks comment on the affected citations listed and any other provisions of Title 327 that may be affected by this rulemaking.

CITATIONS AFFECTED: [327 IAC 18](#).

AUTHORITY: [IC 13-14-8](#); [IC 13-18-3-1](#); [IC 13-27-8](#).

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING**Basic Purpose and Background**

IDEM's Office of Program Support (OPS) currently runs two voluntary performance based leadership programs known as the Environmental Stewardship Program (ESP) and the Comprehensive Local Environmental Action Network Community Challenge Program (CLEAN). These programs seek to encourage environmental stewardship and invite participants to make continual environmental improvements. In exchange, the programs offer recognition, certain regulatory flexibilities as permitted by the United States Environmental Protection Agency, and an opportunity to work directly with the agency to innovate on compliance issues.

In 2019, IDEM met with community leaders and other interested parties to identify opportunities for program improvement. As a result, OPS developed a Clean Communities pilot program that is currently working with select communities to promote sustainability, rather than just focusing on municipal systems. Further, this pilot program has implemented changes to encourage cooperation with residents and businesses and pared down paperwork requirements.

OPS is proposing to update current rules found at [326 IAC 25](#), [327 IAC 18](#), and [329 IAC 18](#) to incorporate the changes accepted from the Clean Communities pilot program and apply these changes to all program participants. The goal is to facilitate greater participation in IDEM's voluntary performance based leadership programs. Changes being considered may include offering membership tiers that cater to communities of different sizes, changing renewal procedures, the length of membership, and shifting focus from continuous improvement and municipal systems to community and sustainability projects.

This specific rulemaking only makes changes to the water rules at [327 IAC 18](#), which govern components of the ESP and CLEAN program as related to the Office of Water Quality. The rules governing these programs as related to the Offices of Land Quality and Air Quality are being updated in separate, parallel rulemakings. Additional changes may include adding new requirements; correcting obsolete cross-references, typographical errors, and inconsistencies; and simplifying and clarifying existing rule language.

IDEM seeks comment on the affected citations listed, including suggestions for specific language, any other provisions of Title 327 that may be affected by this rulemaking, and alternative ways to achieve the purpose of the rulemaking.

Alternatives to Be Considered Within the Rulemaking

Alternative 1. Amend existing rules to reflect changes that have been made to the voluntary performance based leadership programs.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law and there is no comparable federal law. It is a "state-only" program.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Do not amend existing rules.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. This alternative would keep the CLEAN and ESP programs as they are as opposed to modifying them to increase voluntary participation.

Applicable Federal Law

Not applicable.

Potential Fiscal Impact

Potential Fiscal Impact of Alternative 1. This alternative would have no fiscal impact beyond normal operational costs already incurred by IDEM by operating the CLEAN and ESP programs.

Potential Fiscal Impact of Alternative 2. This alternative would have no fiscal impact beyond normal operational costs already incurred by IDEM by operating the CLEAN and ESP programs.

Small Business Assistance Information

IDEM established a compliance and technical assistance program (CTAP) under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on CTAP and other resources available can be found at:

www.in.gov/idem/ctap

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Angela Taylor
IDEM Small Business Regulatory Coordinator/CTAP Small Business Liaison
IGCN 1316
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 233-0572 or (800) 988-7901
ctap@idem.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-6](#) is:

Greg Lannan
Small Business Ombudsman
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 601-8892
glannan@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-6](#), specifically [IC 5-28-17-6\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Erin Moorhous
IDEM Small Business Assistance Program Ombudsman/Business, Agricultural, and Legislative Liaison
IGCN 1301
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 232-8921 or (800) 451-6027
emoorhous@idem.in.gov

Public Participation and Work Group Information

At this time, no work group is planned for the rulemaking. If you feel that a work group or other informal discussion on the rule is appropriate, please contact Seth Engdahl, Rules Development Branch, Office of Legal Counsel at sengdahl@idem.in.gov, (317) 234-9535 or (800) 451-6027 (in Indiana).

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:
LSA Document #21-521 Title 327 Voluntary Program Revisions

Seth Engdahl
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
Indiana Government Center North
100 North Senate Avenue
Indianapolis, IN 46204-2251

- (2) By electronic mail to sengdahl@idem.in.gov. To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the address**

indicated in this notice.

Contact Karla Kindrick at kkindric@idem.in.gov or (317) 232-8922 if another method of submitting comments within the comment period is desired. Regardless of the delivery method used, in order to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

COMMENT PERIOD DEADLINE

All comments must be postmarked or time stamped not later than January 14, 2022.

Additional information regarding this action may be obtained from Seth Engdahl, Rules Development Branch, Office of Legal Counsel, sengdahl@idem.in.gov, (317) 234-9535 or (800) 451-6027 (in Indiana).

Christine Pedersen, Section Chief
Rules Development Branch
Office of Legal Counsel

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